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## **Chapter 3**

# **“Families Like We’d Always Known”? Spanish Gay Fathers’ Normalization Narratives in Transnational Surrogacy**

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In this chapter, I examine how Spanish gay men who became fathers through transnational gestational surrogacy normalize their path to this ART method. I ask how far they draw upon normative family models during this process, and to what extent they transform them. I pursue these questions because, as relatively new reproductive subjects using ARTs, these fathers face a double dilemma in deciding how to account for their new methods of family formation in the face of conventional paths to parenthood. Through their use of surrogacy, Spanish gay fathers must normalize both surrogacy and gay parenting. I argue that they do this by equating their families to previously existing family formation practices. Even though their identity politics is innovative in certain respects, they distance themselves from unconventional family models, to bring themselves more into alignment with dominant social expectations.

**NORMALIZING FAMILIES OF CHOICE?**

My analysis resonates with Charis Thompson's (2005) study of assisted reproduction, which demonstrated how ARTs were normalized and naturalized by their users as "new examples of old things" (*ibid.* 80, 141). In the ART clinics she studied, heterosexual patients' gender and kinship identities were disrupted due to their infertility, and in order to repair them they strategically resorted to scripted gender and kinship roles that might not have been particularly salient in other aspects of their lives. Similarly, in my study, gay men's identities were disruptive of the normative gender and kinship scripts of heterosexual fathers in Spain (Pichardo Galán 2009), posing the question of how to address this situation.

Following queer theory (Kean 2015; Wiegman and Wilson 2015), as well as early lesbian and gay family studies (Weeks et al. 2001; Weston 1991), one option these fathers have would be to challenge the normative scripts and create their own families of choice in novel ways. However, the biological and social barriers these men face on their way to parenthood may have led them to opt for more pragmatic normalization strategies. Such a course of action would also be in agreement with Thompson's argument, as well as with a recently growing body of studies on gay and lesbian parents and the social constraints they face in the UK, the USA (e.g., Jennings et al. 2014; Stacey 2004), and Spain (Pichardo Galán 2009).

Psychological research on the development of children and the well-being of heterosexual intended parents and surrogates over time (e.g., Jadvá and Imrie 2014) has shown that parties involved in domestic altruistic surrogacy in the UK followed normative family structures and relationships. These studies have been focused on the USA and the UK, and have not included gay fathers employing surrogacy. In this chapter, I aim to see whether and how Spanish gay men who become fathers through transnational surrogacy deal with the

normative scripts of family formation in order to access reproduction and benefit from the social protections and privileges of sex, gender, kinship, and nation.

## **EUROPE, SPAIN, AND REPRODUCTIVE TRAVEL**

Surrogacy is prohibited or unrecognized by law in almost all Western European countries. Only Greece, the Netherlands, and the UK allow so-called altruistic surrogacy, whereby the surrogate can receive compensation for costs incurred during her pregnancy from the intended parents, but she cannot earn income or advertise her services (Brunet et al. 2013). Therefore, many Europeans seeking surrogacy commission it in other countries, where commercial surrogacy is legal and available to foreigners, particularly in the United States, India, or Ukraine (Twine, 2015). The resulting transnational movement of babies is creating legal issues for intended parents who seek recognition of their parenting rights and their children's citizenship in their home countries, and adding fuel to a global debate about transnational surrogacy and the rights of surrogates and egg donors (for a detailed discussion of global inequalities, see Vora and Iyengar, this volume).

The Spanish context is conducive to exploring the dynamics of innovation and normalization. Until 1979, homosexuality was criminalized and conservative social mores were promoted by General Franco's regime and the allied Catholic Church; however, with the onset of democracy a major social shift took place towards a greater acceptance of non-traditional values (Pichardo Galán 2009). This culminated in the recognition of same-sex marriage with the right to adopt and raise children in 2005 (Ley 13/2005) and the relatively progressive

Assisted Reproduction Act in 2006 (Ley 14/2006), which gave all women access to ARTs regardless of their sexual orientation or civil status. Nevertheless, men as primary caregivers continue to be a rare minority; opportunities to adopt children are very limited (as discussed below), and surrogacy arrangements are not legally recognized (Ley 14/2006: Art. 10). Not surprisingly, then, in the international context of the rise in gay and lesbian procreative consciousness over the last decade (Berkowitz 2007), Spanish gay men have started to seek surrogacy abroad.

Surrogates working with them often continue to be the babies' legal mothers even after the intended father(s) and baby/ies return to Spain. A lengthy judicial process is usually required for parental rights and citizenship to be transferred, and for the genetic father's spouse to be able to co-adopt the child. In 2010, the Spanish Ministry of Justice issued a directive facilitating the recognition of transnational surrogacy (Ministerio de Justicia 2010), however, in 2015, the Spanish Supreme Tribunal vetoed it (Tribunal Supremo 2015). In this uncertain legal context, Spanish gay fathers through surrogacy may find the social normalization of their families even more important.

## **METHODOLOGY**

I carried out a qualitative study in Spain, including in-depth semi-structured interviews with 23 gay fathers in 12 families created through transnational gestational surrogacy. Ten of these families contracted the surrogacy arrangement in the USA and two in India. The findings thus give more insight into the US situation than that in India. The families were recruited from

gay family associations, community announcements, and personal networks. Their children were aged between one and six years at the time of the interviews. All of the fathers I encountered during this research were white and middle to upper class.<sup>1</sup> Parents with this profile have more access to intentional gay family formation (Jennings et al. 2014), and even more to costly transnational surrogacy. Apart from one single father, all the parents were couples of two fathers, married or not.

My analytical strategy is indebted to the narrative tradition of qualitative sociology, which asks why speakers tell certain stories. Inspired by Erving Goffman (1963), I assume that speakers who face stigma, such as my interviewees, may feel coerced into constructing their public identities in a way that will protect them from the negative effects of the stigma.

## **SPANISH RECOGNITION BY GLOBAL MEANS**

Among the men I interviewed, two main reasons for the choice of a surrogacy destination country were dominant: firstly, mundane circumstances such as legal recognition or prices and, secondly, their perceptions of the cultural closeness or distance of the country and people involved in surrogacy arrangements, including the ethical side of the process.

The families who had completed surrogacy in the United States depicted it as the most common and least controversial surrogacy destination, despite its high financial cost (approximately 100,000 US dollars<sup>2</sup>). Their major practical motivation was surrogacy laws that in some parts of the USA give intended fathers explicit parenting rights, which were also recognized with greater ease by the Spanish administration; including attaining Spanish

citizenship for the children since the 2010 directive from the Spanish Ministry of Justice (Ministerio de Justicia).

These fathers reported feeling culturally closer to the part of the USA to which they traveled than to other surrogacy destinations. They felt that they shared a Western culture they considered “normal” with the surrogates, egg donors, and agency or clinic practitioners in the USA, as well as English or Spanish as languages (some of the US surrogates being of Mexican origin). This, enhanced by the legal freedom to choose and contact the surrogate and egg donor, gave the fathers a feeling of control over the process, as well as the feasibility of contacting the involved women in the future.

We preferred a person who had a normal life, in a normal family. So India was much cheaper, but the United States gave us much more security and tranquility. And the language too, the surrogates in India don't speak English either, most only speak Hindi. And then, when our daughter is older, we're going to explain to her what we have done and who her surrogate is, and that we have a relationship with her, and of course, with India it's a bit more difficult. The issues of paperwork and documentation are also much more difficult.<sup>3</sup>

Furthermore, certain common practices at US surrogacy agencies and clinics gave these men a perception of the process as ethically trustworthy. They praised the mutual choice taking place between surrogacy parties through internet profiles, which bore some resemblance to dating, and stressed the self-determination and agency exercised by the egg donors and surrogates.<sup>4</sup> In the same vein, many of these men highlighted what they perceived as the women's pro-social and altruistic motivations, their socially inclined professions or interests,

as well as the friendship and exchange of life favors they established with their surrogates throughout the process.

Some people think that surrogacy is a pure and tough economic transaction. But we were very lucky in the relationship we are maintaining with the woman who had them in her belly; we called her the godmother, because we thought it was someone closer and we wanted to give her a more important place in our family. And for the girls the godmother is very important. From time to time we talk on the phone to her and her family; we know her husband, her children, her mother.

On the other hand, the men who had completed surrogacy in India justified it by its lower cost (approximately 50,000 US dollars), as well as their understanding of global justice, in terms of which they preferred to help a poor Indian family rather than contribute to wealthier American agencies, clinics, and women (cf. the discussion of ethical dilemmas in Førde, this volume). These fathers also rejected what they called the US “dating” style of relationships with surrogates and donors, which, in their view, was exaggerated given that surrogacy is in fact an exchange of services. Nevertheless, these men had to contend with social criticisms of Indian surrogacy as ethically problematic towards the involved women.<sup>5</sup> They reported that Spanish gay fathers who conducted surrogacy in the USA, as well as major associations of parents through surrogacy in Spain, distanced themselves from Indian surrogacy due to the global inequalities upon which it was based and its unregulated nature. These fathers exchanged information within an online group of Spanish parents through surrogacy in India.

Obviously, I’m doing it to help myself. But I prefer this money to serve an Indian family, because it will change their lives; rather than an American family whose lives it won’t change, and where most of the money you spend (and you spend a lot) is due to the type of health care they have in the USA ... What I can assure you is that in the

clinic where I went and where the other people I know went, there is no exploitation. I met the surrogate, and my eldest son met her, we stayed with her, and there's nothing like that.

All of the interviewed men insisted on the human values that are present in surrogacy alongside the economic, an example of which was their rejection of the common Spanish term “belly for rent” (*vientre de alquiler*), which they considered reductionist and inadequately implying an impersonal and purely commercial exchange. At the same time, they did not deny the economic nature of the process, but rather normalized it by comparing surrogacy to different aspects of raising children nowadays, in which economic exchanges are also present, such as education and health care.

In navigating among these arguments, most of these fathers claimed they had chosen surrogacy because for them it was the most accessible path to parenthood. Almost all of them reported that before completing surrogacy they had first contemplated or attempted adoption, but that it had not worked for numerous reasons (the long process of obtaining a parental suitability certificate, subjective or homophobic decisions made by some psychologists or officials, age limits for intended parents, legal homophobia in international adoption towards gay couples or single men). Apart from these practical difficulties in the adoption process, some of the men also opted for surrogacy because they felt incapable of bringing up adopted children whom they would only receive at an older age, when they would face more issues of re-enculturation and less “normal” parenting from infancy.

When I started having all this desire for fatherhood, it was not about having my own biological offspring [*de mi sangre*], so if it had been easier to adopt, I would have gone for adoption, but when I inquired a little I saw it was virtually impossible, unless



I wanted to get a child after a long fight of six or seven years. And I sincerely wanted to be a father from the beginning or for as young a child as possible, because I honestly do not see myself prepared for all the problematics related to adopting a five- or six-year-old, who would surely come from another culture, speak another language...

## **NORMAL FAMILIES BY NOVEL MEANS**

Even though these men eventually managed to create the families they desired, during the process they struggled with what they experienced as priority being given to women as parents by biology, society, and Spanish law. One example of this, according to the interviewees, was the 2006 Assisted Reproduction Act, which many of them criticized for granting access to assisted reproduction to all women whilst denying it to men. In this context, given the high cost of transnational surrogacy, accessible only to intended parents of higher social class backgrounds, the terms under which assisted reproduction was incorporated into the available options of family formation in Spain were classed and gendered.

The law allows lesbians to register the child of one under the names of both, it is allowed for two women, and the Constitution says you cannot discriminate by gender, but it is not allowed for two men.

Similar patterns could be seen in the fathers' social experiences, suggesting an ongoing but as yet incomplete change in social perceptions of surrogacy. Many of the interviewed men reported that, before embarking on their surrogacy arrangements, they had to contend with

their own doubts, lack of knowledge, or even prejudice with regard to the process. Some also mentioned the mixed feelings or reservations with which their decision to pursue surrogacy was received by some of their extended family members or friends, not only because they were a family of two men, but also specifically because of the perception of surrogacy as a controversial technique. Nevertheless, despite these initial reservations, in the end all of the interviewed fathers and their children reported being warmly welcomed by their local communities, schools, friends, and families.

When we decided to do surrogacy, my sister and my husband's sister initially had some reservations, I think due to the lack of knowledge, because they thought it was like an exploitation of the female body and all that.

From the very beginning, all the interviewees were open in all their social milieus about being gay father families created through surrogacy, non-disclosure not being an option due to their social visibility. Apart from some initial reactions of surprise or disbelief on the part of their school mates, the interviewed families' children claimed not to have experienced bullying or exclusion in their schools (for interviews with the children see also: Smietana 2011). As I argue throughout this chapter, this inclusive situation seems to have been possible in the Spanish context thanks to the fathers' framing of their families as "normal" and "conventional." Indeed, such identity politics appeared to be expected from these gay father families by many of the social actors they addressed in their narratives, such as legislators or psychologists, who could impact on their custody rights. At the same time, however, the "normalcy" narrative could also be said to accurately describe the families' everyday lives, which revolved around home, childcare, school, and work.

In reality we are a conventional family, and every day, when you see other families, you say we're exactly like the rest. We have a life of school, buying food, we really have the life of a conventional family, even though we may have found it hard to admit.

Consistently, the men also held rather conventional beliefs about family structures in the context of interviews about surrogacy. Despite the participation of surrogates and egg donors in their family formation projects, all of the interviewed fathers retained exclusive parenting rights, and the children lived with them permanently. At the same time, the families created through surrogacy in the USA did maintain contact with the surrogates, even though these women were not considered mothers but rather family friends, aunts, or godmothers. Contact with egg donors was much more limited by the agencies, clinics, and the women themselves, who usually preferred not to be contacted before the child was adult. Given the nature of gestational surrogacy, the egg donors were not involved during the pregnancy, unlike the surrogates. Alongside their relationships with the involved women, however, the interviewed men aimed to form nuclear two-father families.

We wanted to raise her ourselves, we did not want her to spend a weekend with us and a weekend with others ... We had an idea of a family like we'd always known, but with two men, that was the idea we had. But, well, perhaps because that's what we had access to.

This rather conventional family structure corresponded to the biopolitics of race and class pursued by the fathers during the family formation process in the USA. In their choice of egg donors, the men usually opted for educated women with Mediterranean white skin and dark hair color. This not only revealed their beliefs in the genetic foundations of socially valued attributes such as intelligence, it also showed, yet again, their strategic choice of socially

inconspicuous attributes. The fathers justified matching their own and the donors' skin and hair color by what they perceived as the need to protect their children from being too different from the majority of their peers.

We chose an egg donor who would resemble the Spanish type of woman, and not someone with certain physical characteristics that are not common in our family, for example we didn't want a blond American woman. We didn't want to add extra difficulties for our son, like being very blond in a country where people are not so blond, or being black when there are so few black people in this country. I think by the fact of having two fathers and the fact of having been born through surrogacy, he is already different enough from his peers.

Even though most of the fathers aimed to achieve phenotypical similarity between themselves and their children, they reported this to be motivated by the objectives of social inclusion, claiming to regard the importance of genetic links to their offspring as secondary. They were aware that such links could have a potential impact on the social and legal recognition of their family relationships, and some thus resorted to strategies of counteracting or co-opting two-parent biology, such as creating two embryos, each with the semen of one of the fathers in a couple. Most of them, however, did not consider biological parenthood the major criterion in their choice of surrogacy.

Yet another family formation practice through which these fathers blended the innovative and the conventional was their interpretation of gendered parenting roles. All of them assumed household and childcare tasks traditionally associated with both mothering and fathering, despite the atypicality of men as primary caregivers in Spain (Smietana 2011). However, many of these fathers did not ultimately escape the context of gender, class, and national

hierarchies, as they resorted to at least part-time babysitting by female and often immigrant nannies.

## **MONONORMATIVITY, HOMONORMATIVITY, AND THE POLITICS OF NORMALIZATION**

Transnational surrogacy arrangements involving many parties imply that the available options for family formation have expanded beyond the normative household of two biological parents of two different genders within the legal context of Spain. Moreover, the men interviewed in this study assumed partially innovative interpretations of gender and sexuality identity scripts, in agreement with previous research on intentional gay father families (Biblarz and Stacey 2010).

Nonetheless, in family formation, they aimed to create rather conventional nuclear families: the surrogates and egg donors were not considered mothers, the fathers sought Spanish citizenship for their children, and they desired to be seen as no different from other families. Hence, compared to the gay and lesbian “families of choice” based on friendship ties that formed unconventional “experiments in living,” described by Kath Weston (1991) or Jeffrey Weeks et al. (2001), the gay father families interviewed within this study appeared to have been working with more conventional family characteristics so as to navigate access and social acceptance. This normalizing process has also been captured by other studies of surrogacy and ARTs (Jadva and Imrie 2014; Thompson 2005), as well as gay parenting (Jennings et al. 2014; Pichardo Galán 2009), both in the USA and the UK as well as in Spain.

This is not to say that all families created by gay men have become “conventional”; within the non-heterosexual population (as in the heterosexual one) a variety of family models co-exist. Yet, with the extension of relational and parenting rights, those gay men who opt to raise children are strategically incorporating and thereby slowly changing the normative kinship scripts.

The normative trait most emphasized by these gay fathers through surrogacy was nuclear parental exclusivity and legitimacy, which has also been reported as important to adoptive gay father families in different Western contexts such as the UK and Spain (Jennings et al. 2014; Smietana et al. 2014). Even though both of these family types rely on third parties in their family formation, and open as they may be to contact with those parties (particularly in surrogacy in the USA, where such contact is favored by social and legal circumstances), this does not infringe upon the nuclear family cornerstone. While subscribing to this family structure, the Spanish gay fathers through surrogacy did not view biological links to the children as an essential or unambiguous criterion in their choice of the path to parenthood; however, they did eventually co-opt the legal and social importance of their genetic ties to the child.

Similarly to adoptive gay father families, for these fathers through surrogacy, an important determinant in their choice of the path to parenthood was ease of access, as perceived by the men. In this process, surrogacy fathers avoided the regulating practices of state adoption agencies; instead, they became more immersed in social class dynamics, which permit surrogacy to parents from higher social classes in wealthy Western nations; thus, in Sarah Franklin’s (2011) words, reproducing a traditionally stratified world (see also Vora and Iyengar, this volume). In contrast to the racially diverse Spanish gay father families through

transnational adoption (Smietana 2011), in navigating social inclusion, the Spanish gay fathers through gestational surrogacy in the USA also reconstituted the dominant biopolitics of race and class, by a strategic matching with educated egg donors of white Mediterranean skin color.

New practices such as surrogacy and gay parenting were normalized by the men in this study through their interpretation of them as “new examples of old things” (Thompson 2005, 141), or, in the interviewees’ own words, as “a family like we’d always known, but with two men.” Still, even in the favorable Spanish social context “beyond the closet,” the existence of these surrogacy families was not completely normalized, either socially or legally. Therefore, in challenging the taboos embodied by gay father surrogacy families, the interviewed men resorted to the identity politics of “normal families,” in agreement with their aspirations and beliefs about what constitutes a family. In other words, to repair their parental identity, which in the majority society’s view was not “normal,” these fathers strategically inhabited and mobilized normative family scripts.

In counteracting the social ambiguity of surrogacy in Spain, the men also provided ethical justifications for their reproductive choices. Like other participants in technology-assisted family formation, for example in donor insemination (Tober 2001), these fathers subscribed to neoliberal values of free and global economic exchange in commodified reproduction, yet at the same time they self-regulated and justified their reproductive decisions with altruistic motivations, such as the exchange of life favors with empowered surrogates (for similar arguments in transnational egg donation see Kroløkke, and Namberger, this volume).

These gay fathers' narratives represent what queer scholars have called "mononormativity" (Kean, 2015), whereby a monogamous family structure of two adults in a romantic and sexual relationship is seen as a coherent and privileged mode of relationality, as opposed to, for example, coparenting. This, in conjunction with the other normative family formation practices I have described in this chapter (the biopolitics of class and race, the identity politics of normalcy), allows one to state that these Spanish gay fathers through surrogacy comply with the structures and processes of "homonormativity" (Wiegman and Wilson 2015). In this way, gay positionalities are recoded in normative terms, and at the same time often in adherence to the reproduction of classed, gendered, and racialized hierarchies.

Yet, in order to interpret these gay fathers' narratives, it is important to understand the political and social pressures exerted on them. As a researcher, I faced the challenge of addressing the complexity of the existing power relationships within which my interviewees were immersed, without downplaying their egalitarian aspirations or causing harm to their parenting projects. As pointed out by Judith Stacey (2004), there has been social pressure for both lesbian and gay parent families and the research on them to prove that they are no different from their heterosexual counterparts, which demonstrates that social inclusion limits de novo definitions of family formation to the given gendered, classed, and racialized hierarchies and histories of particular jurisdictions. This normative pressure has been internalized by gay parents themselves, who often seem to view it as a way to fulfill their parenting aspirations, including gaining the privileges of social inclusion. As expressed by a member of a major Spanish LGBT family association whom I interviewed, "We don't have a moral duty to invent family forms that would challenge the norm."



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## Endnotes

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<sup>1</sup> The resources the interviewed fathers used to pay for surrogacy came from their earnings and savings, in some cases aided by bank loans they had taken out for that purpose or by family resources such as inheritance. Despite the existence of free health care and welfare benefits in Spain, no state subsidies were involved due to the lack of legal recognition of surrogacy.

<sup>2</sup> This approximate price, quoted by my interviewees, included the total cost they incurred for surrogacy in the USA: the fees for the surrogate, egg donor, clinic, attorney, and agency, as well as health insurance, flights, and hotels.

<sup>3</sup> All quotations are my translations from interviews, conducted in Spanish or Catalan with fathers through surrogacy, unless indicated otherwise.

<sup>4</sup> For a debate on the extent of the agency and self-determination experienced by surrogates in the USA, see e.g. Twine (2015). I look at the experiences of surrogates and egg donors in the USA in the research project “SurrogARTs,” see [www.surrogarts.eu](http://www.surrogarts.eu).

<sup>5</sup> As this study did not include the surrogates themselves, I am not in a position to judge how accurate the fathers’ assessments of their specific surrogates’ situation were, either in India or the USA. Whilst the payment received by surrogates in India may significantly change their

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life prospects, they come from the lowest social classes and often lack full protection during the process (Sama, 2013). With regard to gay fathers, in 2013 new Indian regulations limited access to surrogacy only to married heterosexual intended parents in whose home countries foreign surrogacy is legally recognized (Twine, 2015). For a discussion of transnational surrogacy in India see also Førde, and Vora and Iyengar, this volume.